

**Petition for Order Directing Trustee to Pay Medi-Cal Creditor Claim**

		<p><b>TOBY DOUGLAS</b>, Director of the California Department of Health Care Services (DHSC), is Petitioner.</p> <p>Petitioner requests an Order directing the trustee of the Martin Rodriguez Special Needs Trust to pay DSHC's creditor's claim.</p> <p>In support of the petition, Petitioner alleges Title 42 United States Code section 1396p(d)(4)(A) and California Code of Regulations, title 22, section 50489.9 subdivisions (a)(3)(C) and (a)(4)(E) govern special needs trusts and mandate that to the extent that there are assets remaining in the beneficiary's trust account upon the beneficiary's death, the trust must reimburse the State from such remaining assets "up to an amount equal to the total medical assistance paid on [the beneficiary's] behalf . . . under a state plan . . ." that is, under Medi-Cal here. Thus the federal Medicaid statute and the California regulations set for the parallel language and both require that the State recoup Medicaid/Medi-Cal monies when a special needs trust terminates.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Petition was not verified. Probate Code §1021.</li> <li>Need Notice of Hearing. (Judicial Council form DE-120, California Rules of Court 7.101 states if a form has been adopted for mandatory use, that form must be used.)</li> <li>Need proof of service of the Notice of Hearing on all interested parties.</li> <li>Reply to Objections were not verified. Probate Code §1021.</li> <li>Need Order</li> </ol>
<b>Cont. from 012413</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>	X		
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>	X		
<b>Aff.Mail</b>	X		
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>		<p><b>Wherefore, Petitioner prays for an Order that:</b></p> <ol style="list-style-type: none"> <li>The Court find that DHCS's claim in the amount of \$ of \$422,984.74 [this amount was later revised by DHCS to \$120,502.20 per Reply to Objections filed on 1/29/13] is valid under federal and California law. The trustee is directed to pay the claim before any remaining trust assets are distributed.</li> </ol>	
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<input checked="" type="checkbox"/> <b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>	X		
<b>Aff. Posting</b>		<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 1/31/13</b></p> <p><b>Updates: 2/4/13</b></p> <p><b>Recommendation:</b></p> <p><b>File 1A - Rodriguez</b></p>	
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<p><b>Please see additional page</b></p>	

## **1A Martin Rodriguez Special Needs Trust (SNT) Case No. 11CEPR00430**

**Objection to Petition for Order Directing Trustee to Pay Medi-Cal Creditor Claim filed by Trutee Bruce Bickel on 1/7/13.** Objector alleges he received DHCS Medi-Cal Claim dated 8/6/12 in the amount of \$422,891.74. On 8/31/13, the Trustee's attorney wrote to DHCS disputing the Claim on the basis that DHCS is barred by existing law. The parties have since exchanged several communications in attempt to negotiate a settlement. DHCS has continued to maintain that they have a recovery right against the Trust, and the parties have been unable to come to a settlement.

In summary, the dispute is as follows: When a Medi-Cal beneficiary like Martin Rodriguez dies, DHCS generally is entitled to recover the value of the benefits provided against the estate of the decedent. On the one hand, these recovery rights may be cut off completely or, at least delayed, by several statutory exceptions. Two such exceptions squarely apply to Martin's case, i.e. he was under the age of 55 at the time services were received, and he left a surviving spouse. On the other hand, Martin had established a special needs trust (SNT) with the proceeds of a litigation settlement. Such a trust requires that DHCS be reimbursed from the trust at an amount equal to the total medical assistance paid on behalf of the beneficiary. An SNT with this reimbursement feature is commonly called a "payback SNT." Thus the crux of the dispute takes shape: When a Medi-Cal beneficiary dies with a payback SNT, do the normal exceptions to DHCS recovery apply, or does the payback provisions in the SNT override these estate recovery exceptions?

In Shewry v. Arnold (2004) 125 Cal.App.4<sup>th</sup> 186, the California Court of Appeal has already answered this question, and held the normal exceptions to DHCS' recovery apply, notwithstanding the existence of a payback SNT.

Legal discussion included in the pleadings.

Objector concludes, the normal estate recovery statutes under federal law would completely bar DHCS's recovery. Under California law, such recovery would be completely delayed until the death of Martin's wife, Rosetta Rodriguez, and then such recovery would be limited to only nursing facility care provided by the State to Martin. Shewry v. Arnold holds that the normal estate recovery exceptions should apply to payback SNTs and this holding is broad enough to apply the estate recovery exceptions applicable to Martin's estate. Neither Shewry v. Arnold nor the relevant statutes support a sensible argument that would limit the holding just to the adult disabled child estate recovery exception.

Accordingly, Petitioner's request for an Order Directing the Trustee to Pay the Medi-Cal Creditor's Claim should be denied.

**Wherefore, the Trustee respectfully requests that the Court issue an Order:**

1. Based upon federal law, denying DHCS' claim of \$422,984.74 [this amount was later revised by DHCS to \$120,502.20 per Reply to Objections filed on 1/29/13] against the trust in its entirety;
2. In the alternative, based upon California law, denying DHCS's claim in its entirety until the death of Rosetta Rodriguez, and then limiting DHCS's recovery to services provided to Martin Rodriguez for nursing facility care.

**Please see additional page**

## **1A Martin Rodriguez Special Needs Trust (SNT) Case No. 11CEPR00430**

**Reply to Objections filed by DHCS on 1/29/13 states** Petitioner initially sought reimbursement of \$422,894.74, but has recently learned that Mr. Rodriguez paid \$302,392.50 toward a previous personal injury lien. Petitioner therefore seeks reimbursement of the remaining balance of \$120,502.20.

The Trustee contends that DHCS's reimbursement claim is barred by Medicaid/Medi-Cal estate recovery exemptions because Rodriguez was less than 55 years of age when he died, and he left a surviving spouse. According to the Trustee, Shewry v. Arnold held that those Medicaid/Medi-Cal estate recovery exemptions apply to the Rodriguez SNT.

The Trustee's arguments are without merit. Both federal and state law requires the Rodriguez SNT reimburse DHCS before distributing any remaining trust assets. The express provisions of the Rodriguez SNT also require the reimbursement of DHCS. The estate recovery exemptions do not apply because this is an action against the SNT, not the estate. The federal payback provision for the SNTs trumps all estate recovery exemptions. The controlling state law provisions also mandate reimbursement. Shewry v. Arnold does not apply because the assets in question are still part of the Rodriguez SNT, and have yet to be distributed to his heir. For these reasons, the Court should issue an order directing DHCS's claim of \$120,502.20 for all Medi-Cal expenses. Alternatively, the court should issue an order finding that DHCS is entitled to recover the \$120,502.20 from Rodriguez's surviving spouse, Rosetta, upon her death.

Legal argument included in the pleading.

**Response to Reply to Objection to petition for Order Directing Trustee to Pay Medi-Cal Creditor Claim filed on 2/1/13.** Trustee alleges that prior to the establishment of the SNT, as permitted by law, DHCS asserted a claim (the "Original Claim" ) against the litigation settlement proceeds in the amount of \$406,667.67 for medical services paid on behalf of Martin Rodriguez up to that point. Following negotiations with Warren R. Paboojian, Esq. Martin's personal injury attorney, DHCS and Mr. Paboojian agreed that reimbursement in the amount of \$302,392.54 would fully satisfy the Original Claim. This amounted to a reduction of \$104,275.13.

Petitioner's reply admits DHCS initially, and incredibly, overlooked the fact that they had already been paid \$302,392.54, and thus their claim for \$422,894.74 included charged for medical services for which they had already been reimbursed.

Missing from Petitioner's reply is any mention that DHCS also entered into a settlement agreement to satisfy the Original Claim for \$302,392.54. Again, this amounted to a reduction of \$104,275.13. DHCS' revised claim less the settlement reduction would equal \$16,227.07 (\$120,502.20 less \$104,275.13).

Thus, even before looking to the legal validity of the Objections, DHCS should be at most entitled to \$16,227.07.

With respect to the legal merits of the DHCS' Reply Shewry v. Arnold is a controlling case nearly "on all fours". In the court's words, in discussing the estate recovery exception at 198, "We can discern no reason that the remaining asset of a court approved special needs trust should be treated differently than any other assets of an estate." The only substantive difference between Shewry v. Arnold and the case at hand is a different estate recovery exception. Again, nothing in the ruling indicates the holding was meant to be limited to simply the adult disabled child exception.

**Please see additional page**

## **1A Martin Rodriguez Special Needs Trust (SNT) Case No. 11CEPR00430**

Wherefore, the Trustee, in addition to the relief previously requested, respectfully requests that the court issue an order:

1. Reducing DHCS' initial estate recovery claim of \$422,894.74 by (a) the \$302,392.54 DHCS already received, and (b) the \$104,275.13 reduction that DHCS already settled upon with Mr. Paboojian leaving a remaining claim of \$16,227.07.

**Atty Matlak, Steven M. (for current Trustee Bruce Bickel)**
**Atty Barron, Richard B. (for former Trustee, Perine & Dickens Professional Fiduciaries)**
**Atty Lien, Grant (for Director of Dept. of Health Services)**

**Petition for Approval of Supplemental Account, for Discharge of Trustee, for  
Exoneration of Trustee's Bond, for Approval of Trustee's Fees and for Authorization  
to Pay Fees of Trustee's Attorneys**

			<b>PERINE &amp; DICKENS PROFESSIONAL FIDUCIARIES</b> , former conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>			Account period: 6/1/11 - 9/30/12	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		Accounting - <b>\$10,283.55</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>		Beginning POH - <b>\$ 9,485.55</b>	
<input type="checkbox"/>	<b>Inventory</b>		Ending POH - <b>\$0</b>	
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>		Current bond: <b>\$1,139,886.00</b>	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		Trustee - <b>not addressed</b>	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	W/	Attorney - <b>\$1,382.50</b>	
<input type="checkbox"/>	<b>Aff.Pub.</b>		(5.5 hours of attorney time @ \$235.00 per hour and 10.3 hours of paralegal time @ \$90.00 per hour)	
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>		Costs - <b>\$356.00</b>	
<input type="checkbox"/>	<b>Letters</b>		(filing fee and court call)	
<input type="checkbox"/>	<b>Duties/Supp</b>		<b>Petitioner prays for an order:</b>	
<input type="checkbox"/>	<b>Objections</b>		1. Approving, allowing, and settling the supplemental account;	
<input type="checkbox"/>	<b>Video Receipt</b>		2. Approving the fees and costs charged by the attorney as set forth in the petition and directing successor Trustee to pay the sum of \$2,575.50 for professional services rendered and costs.	
<input type="checkbox"/>	<b>CI Report</b>		3. Discharging the Trustee and exonerating its bond as Trustee of the Trust.	
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
				<b>Reviewed by: KT</b>
				<b>Reviewed on: 1/31/13</b>
				<b>Updates:</b>
				<b>Recommendation:</b>
				<b>File 1B - Rodriguez</b>



Atty Wall, Jeffrey L., sole practitioner (for Petitioner Maria Flores-Cervantes, surviving spouse)  
 Atty Karby, Michael; Hogue, David; of H & K Inc. (for Claimant Ernesto Flores, brother)

### Spousal or Domestic Partner Property Petition (Prob. C. 13650)

<b>DOD: 6/10/2012</b>	<b>MARIA FLORES-CERVANTES</b> , surviving spouse, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Note:</b> Minute Order dated 11/9/2012 from the hearing on the <i>Petition for Letters of Administration</i> filed 10/12/2012 by <b>ERNESTO FLORES</b> , brother, filed in competition with the <i>Petition for Letters of Administration</i> filed 8/20/2012 by the Petitioner herein, states in pertinent part: Mr. Wall informs the Court that he just substituted in as counsel [Substitution filed 11/5/2012]. Mr. Karby informs the Court that he will be filing a request for special notice and a creditor's claim. At the request of counsel the competing petition of Ernesto Flores is withdrawn and dismissed.
	No other proceedings.	
<b>Cont. from</b>		1. <i>Attachment 7</i> to the <i>Petition</i> does not include sufficient facts pursuant to Probate Code § 13651(a)(3) and (4) for the Court to determine that the property listed in <i>Attachment 7(a)</i> is community property passing to Petitioner; for example, Petitioner should provide the date that Decedent and Petitioner were married and the date the real property was acquired in addition to stating that community funds were used, as well as provide the reason that title was registered in the name of Decedent alone.
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>	Decedent died intestate.	<b>Reviewed by:</b> LEG
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		<b>Reviewed on:</b> 1/31/13
<input type="checkbox"/> <b>Not.Cred.</b>	<b>Petitioner states</b> the real property was acquired during the marriage of Decedent and Petitioner with community funds; however, title was registered in the name of Decedent alone.	<b>Updates:</b>
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		<b>Recommendation:</b>
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	W/	<b>File 3 - Flores</b>
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input checked="" type="checkbox"/> <b>Sp.Ntc.</b>	W/	
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>	<b>Petitioner requests</b> Court determination that ½ interest in real property located at 20944 S. Castro Street, Laton, passes to her, and Court confirmation that ½ interest in the real property belongs to her.	
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		

~Please see additional page~

**Creditor's Claim filed 1/25/2013 in the amount of \$9,818.27 by ERNESTO FLORES, brother of Decedent, requests the following:**

- Reimbursement of **\$3,818.27** (\$2,873.49 plus \$944.78) for payments on 6/12/2012 and 7/7/2012 for the purchase of a grave lot, endowment care, opening and closing, concrete vault, marker setting fee, and head stone grave marker.
- Reimbursement of **\$6,000.00** for a loan to the Decedent in order to bail him out of jail.
- *Attachment to Creditor's Claim* states in brief sum, he is the brother of the Decedent and a creditor of the Decedent's estate, and requests reimbursement of the following expenditures:
  1. **Bail:** During Decedent's lifetime on 1/31/2011, the Decedent was arrested and he agreed to loan Decedent the money to post bail and be released from the Fresno County jail on bond;
    - He contracted with All-Pro Bail Bonds and agreed to pay the sum of **\$6,000.00** to bail the Decedent out of jail, and made an immediate payment of **\$1,500.00** on Decedent's behalf and owed the remaining **\$4,500.00**, a debt against which he has been making payments ever since (*please refer to Exhibits A and B for copies of transaction documentation*);
    - **He requests the Court make a finding that this debt owed to him by the Decedent in the amount of \$6,000.00 is a debt of the Decedent, and that the Court make an order that repayment to him in the amount of \$6,000.00 from Decedent's estate is allowed and confirmed.**
  2. **Funeral expenses:** At the time of Decedent's death, he was estranged from his spouse, Petitioner herein, and Decedent was residing in his home when Decedent unexpectedly drowned in the Kings River; no one seemed to have funds sufficient to arrange for costs associated with the Decedent's burial;
    - He paid Selma Cemetery District the sum of **\$2,873.49** so that Decedent could be buried and laid to rest in peace (*please refer to Exhibit C for copy of invoice evidencing payment*);
    - **He requests the Court make a finding that this debt owed to him in the amount of \$2,873.49 is a debt of Decedent, and that the Court make an order that repayment to him of this amount from Decedent's estate is allowed and confirmed.**
  3. **Headstone:** He paid Bell Memorial & Granite Works the sum of **\$944.78** so that Decedent could have a headstone marking his grave (*please refer to Exhibit D for copy of invoice evidencing payment*);
    - **He requests the Court make a finding that this debt owed to him in the amount of \$944.78 is a debt of Decedent, and that the Court make an order that repayment to him of this amount from Decedent's estate is allowed and confirmed.**

**Note:** The Probate Code does not appear to contain provisions for allowing or rejecting of creditors' claims during the course of a summary proceeding such as the instant spousal property petition.

**Note Re Liability of Surviving Spouse:** Probate Code § 13500 provides, *summarized in pertinent part*: When a husband dies intestate leaving property that passes to the surviving spouse under 6401 (*namely, the intestate share of the surviving spouse is the ½ of the community property that belongs to the Decedent*), the property passes to the survivor subject to the provisions of § 13540 et seq. (*applicable to surviving spouse's power to deal with and dispose of community real property*), and to § 13550 et seq. (*regarding personal liability for debts*), and no administration is necessary. Commentary to § 13500 states that a surviving spouse who takes advantage of the spousal property summary proceeding without administration may be liable for the debts of the decedent under § 13550 et seq. **Probate Code § 13554 provides in Subsection (a): Enforcement of debt against surviving spouse.** Except as otherwise provided in this chapter, any debt described in § 13550 may be enforced against the surviving spouse in the same manner as it could have been enforced against the deceased spouse if the deceased spouse had not died.



<b>DOD: 10/27/12</b>			<b>ANTHONY BLAINE KARAS</b> , named alternate Executor without bond, is Petitioner.  Full IAEA – ok  All heirs waive bond.  Will dated 04/17/07  Residence: Fresno Publication: The Business Journal  <u><b>Estimated value of the estate:</b></u> Personal property - \$ 80,000.00 Real property - 20,000.00 <b>Total - \$100,000.00</b>  Probate Referee: <b>STEVEN DIEBERT</b>  Petitioner states that he has not been able to procure the original will because the decedent's girlfriend/ex-wife has not allowed him access to the decedent's residence where his personal papers and the key to his safety deposit box are located. Petitioner states that he is confident that once he is able to gain access to the decedent's things and his girlfriend/ex-wife surrenders decedent's keys, he will be able to find the original will. Petitioner states that he is confident that the decedent had no other will, had not revoked this will, and that Decedent had affirmed to him that the copy submitted to the Court was his Last Will and Testament.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need Original Will.  <b>Note: If the petition is granted status hearings will be set as follows:</b>  • <b>Friday, 07/12/13 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u>  • <b>Friday, 04/11/14 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.  Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	s/p		
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/		
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input checked="" type="checkbox"/>	<b>Letters</b>			
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>			
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			

**Petition of Resigning Trustee for Approval of First and Final Account, for Approval of Resigning Trustee's Fees and for Authorization to Pay Fees and Costs of Counsel for Resigning Trustee**

			<b>PERINE &amp; DICKEN</b> , former trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: A Status hearing will be set as follows:</b>  <ul style="list-style-type: none"> <li>• <b>Friday, 02/07/2014 at 9:00a.m. in Dept. 303</b> for the filing of the next accounting</li> </ul> Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
			Account period: <b>05/01/11 – 09/30/12</b>	
<b>Cont. from</b>			Accounting - <b>\$98,649.44</b>	
	<b>Aff.Sub.Wit.</b>		Beginning POH - <b>\$0.00</b>	
✓	<b>Verified</b>		Ending POH - <b>\$10.04</b>	
	<b>Inventory</b>		Trustee - <b>\$5,304.00</b>	
	<b>PTC</b>		(\$5,124.00 (42.70 hrs. @ \$120/hr.) has already been paid to the former trustee pursuant to Section 13 of the Trust, plus \$180.00 for its time preparing and reviewing this Petition, itemized)	
	<b>Not.Cred.</b>		Attorney - <b>\$2,260.50</b> (per itemization for 12.4 hours through 09/30/12 plus 2 hours related to this Petition and costs of \$278.00)	
✓	<b>Notice of Hrg</b>		Petitioner resigned as Trustee effective 08/08/12. Bruce Bickel is the successor trustee.	
✓	<b>Aff.Mail</b>	w/	<b>Petitioner prays for an Order:</b>	
	<b>Aff.Pub.</b>		1. Approving, allowing and settling the First and Final Account Current;	
	<b>Sp.Ntc.</b>		2. Approving the Trustees fees already paid as just and reasonable and directing the successor trustee to pay Petitioner the additional sum of \$180.00;	
	<b>Pers.Serv.</b>		3. Approving the attorney fees and costs and directing the successor trustee to pay Luke & Barron \$2,260.50; and	
	<b>Conf. Screen</b>		4. Discharging Petitioner as Trustee.	
	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
				<b>Reviewed by:</b> JF
				<b>Reviewed on:</b> 01/30/13
				<b>Updates:</b>
				<b>Recommendation:</b>
				<b>File 5 - Rodriguez</b>

<b>DOD: 05/27/12</b>			<b>JIM KOBZEFF</b> , son, named alternate Executor without bond, is Petitioner.  Full IAEA – <b>NOT PUBLISHED FOR</b>  Will dated 03/11/86  Residence: Kerman Publication: The Business Journal  <u><b>Estimated Value of the Estate:</b></u> Personal property - \$12,000.00  Probate Referee: <b>RICK SMITH</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Publication does not include a statement that Petitioner is requesting authority to administer the estate under IAEA. If Full IAEA is requested, need new publication. 2. Notice of Petition to Administer Estate is not marked at item 5 requesting authority to administer the estate under IAEA. 3. The Petition states that the decedent had a predeceased spouse, need the name and date of death of predeceased spouse listed in item 8 of the Petition pursuant to Local Rule 7.1.1D. 4. Need Confidential Supplement to Duties & Liabilities. 5. Need Letters.  <b>Note: If the petition is granted status hearings will be set as follows:</b>  • <b>Friday, 04/11/14 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.  Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
<b>Cont. from</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	s/p		
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
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<input checked="" type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input type="checkbox"/>	<b>Letters</b>	x		
<input type="checkbox"/>	<b>Duties/Supp</b>	x		
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
<b>Reviewed by:</b> JF <b>Reviewed on:</b> 01/30/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 6 - Popoff</b>				

**Petition of Will and for Letters of Administration with Will Annexed; Authorization to Administer Under the Independent Administration of Estates Act**

<b>DOD: 03/22/2012</b>			<p><b>BARBARA CARDOZA</b>, non-relative, is petitioner and requests appointment of the <b>PUBLIC ADMINISTRATOR</b> with will annexed, without bond.</p> <p>Full IAEA – o.k.</p> <p>Will Dated: 10/27/1988</p> <p>Residence: Fresno</p> <p>Publication: The Business Journal</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>7B is the compelling Petition of Margaret Andersen, decedent's spouse.</b></p> <ol style="list-style-type: none"> <li>1. Need Letters.</li> <li>2. Need consent of Public Administrator for appointment.</li> </ol>								
<b>Cont. from</b>												
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	s/p										
<input checked="" type="checkbox"/>	<b>Verified</b>											
<input type="checkbox"/>	<b>Inventory</b>											
<input type="checkbox"/>	<b>PTC</b>											
<input type="checkbox"/>	<b>Not.Cred.</b>											
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>											
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/										
<input checked="" type="checkbox"/>	<b>Aff.Pub.</b>											
<input type="checkbox"/>	<b>Sp.Ntc.</b>		<p><b>Estimated value of the Estate:</b></p> <table> <tr> <td>Personal property</td> <td>-</td> <td>\$45,000.00</td> </tr> <tr> <td>Real property</td> <td>-</td> <td>\$322,000.00</td> </tr> <tr> <td><b>Total:</b></td> <td>-</td> <td><b>\$367,000.00</b></td> </tr> </table> <p>Probate Referee: Steven Diebert</p> <p><b>Petitioner states:</b> On 03/22/2012, Daniel William Andersen (decedent) shot and killed Franko Cardoza, then took his own life later that same day. Mr. Cardoza's wife, Barbara Cardoza, (petitioner) seeks to bring a civil lawsuit against the decedent's estate. However, a personal representative for the decedent's estate needs to be appointed, named in the complaint, and served.</p> <p>According to the Code of Civil Procedure the moving party must file its cause of action within one year of decedent's death (03/22/2012). Therefore time is of the essence for a personal representative to be appointed.</p> <p><u>Please see additional page</u></p>	Personal property	-	\$45,000.00	Real property	-	\$322,000.00	<b>Total:</b>	-	<b>\$367,000.00</b>
Personal property	-	\$45,000.00										
Real property	-	\$322,000.00										
<b>Total:</b>	-	<b>\$367,000.00</b>										
<input type="checkbox"/>	<b>Pers.Serv.</b>											
<input type="checkbox"/>	<b>Conf. Screen</b>											
<input type="checkbox"/>	<b>Letters</b>	x										
<input type="checkbox"/>	<b>Duties/Supp</b>											
<input type="checkbox"/>	<b>Objections</b>											
<input type="checkbox"/>	<b>Video Receipt</b>											
<input type="checkbox"/>	<b>CI Report</b>											
<input type="checkbox"/>	<b>9202</b>											
<input checked="" type="checkbox"/>	<b>Order</b>											
<input type="checkbox"/>	<b>Aff. Posting</b>											
<input type="checkbox"/>	<b>Status Rpt</b>											
<input type="checkbox"/>	<b>UCCJEA</b>											
<input type="checkbox"/>	<b>Citation</b>											
<input type="checkbox"/>	<b>FTB Notice</b>											

**Reviewed by:** LV

**Reviewed on:** 01/31/2013

**Updates:**

**Recommendation:**

**File 7A - Anderson**

**Opposition to Appointment of Public Administrator as Administrator with Will Annexed filed 01/22/2013** by Margaret Andersen, decedent's surviving spouse and the beneficiary of decedent's entire estate pursuant to the Will dated 10/27/1988. On or about 006/07/2012, opponent filed a Spousal Property Petition and on or about 07/16/2012 the Court entered a Spousal Property Order confirming the property pass and belong to opponent.

Opponent objects to the appointment of the Fresno County Administrator with Will Annexed of Decedent's estate on the following grounds:

- Opponent is entitled to priority appointment as the nominated Executor of the decedent's Will of 10/27/1988.
- Opponent, as surviving spouse, is entitled to priority of appointment over the Fresno County Public Administrator pursuant to Probate Code §8441 (a), 8461 (a) and 8462.
- Opponent has not manifested any intent, nor does Opponent intend to, waive the right to appointment as Executor of the decedent's estate.

**7B Daniel William Anderson (Estate)**  
**Atty Mason, Gregory S. (for Barbara Cardoza – Petitioner – Non Relative)**  
**Atty Cobb, Lee S.W. (for Margaret Andersen-Petitioner-Spouse)**

**Case No. 12CEPR01144**

**Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 03/22/2012</b>			<b>MARGARET ANDERSEN</b> , spouse/named executor without bond, is petitioner.  Full IAEA – o.k.  Will Dated: 10/27/1988  Residence: Fresno Publication: The Business Journal  <u>Estimated value of the Estate:</u> Total - \$0  Probate Referee: Steven Diebert	<b>NEEDS/PROBLEMS/COMMENTS:</b>          <u>Note: If the petition is granted status hearings will be set as follows:</u>  • Friday, 07/05/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u>  • Friday, 04/04/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.  Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.	s/p		
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail	w/		
<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

<b>Reviewed by:</b> LV
<b>Reviewed on:</b> 01/31/2013
<b>Updates:</b> 02/01/2013
<b>Recommendation:</b>
<b>File 7B - Anderson</b>

**7B**

**Dept. 303, 9:00 a.m. Tuesday, February 5, 2013**

<b>DOD: 1-5-92</b>		<b>NICHELLE LAWS,</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Petitioner does not have authority to petition on behalf of her parent Willie Earl in this summary proceeding without appointment as personal representative.  Petitioner may wish to consider a special administration of Willie Earl's estate (which would be a separate case) for the sole purpose of signing an amended petition in this case as personal representative to pass the property to Willie Earl.  Then, Petitioner, as the proper successor in interest to Willie Earl's estate, could petition to pass the property to her, either via petition to determine succession or by affidavit procedure, if appropriate.  <u>Note: This information is procedural only.</u> <u>The attorney may wish to consider options with reference to applicable code/authority.</u>
		Granddaughter, is Petitioner.	
		40 days since DOD	
		No other proceedings	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input type="checkbox"/>	<b>Verified</b>	I&A: \$40,000.00	
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>	Decedent died intestate	
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>	Petitioner is issue of the decedent's post-deceased only child Willie Earl and requests court determination that decedent's 100% separate property interest in real property located at 2370 S. Eunice in Fresno passes to Willie Earl.	
<input type="checkbox"/>	<b>Aff.Mail</b>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 1-31-13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 8 – Earl</b>

Atty Trujillo, Jessica (pro per Petitioner/mother)

Atty Trujillo, Darlene (pro per Guardian/maternal grandmother)

## Petition for Termination of Guardianship

Age: 7 years		JESSICA TRUJILLO, mother, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		DARLENE TRUJILLO, maternal grandmother, was appointed guardian on 5/16/2012.	1. Need Notice of Hearing.
Cont. from		Father: UNKNOWN	2. Need proof of service of the Notice of Hearing on:
	Aff.Sub.Wit.		
✓	Verified	Paternal grandparents: Unknown Maternal grandfather: Ralph Trujillo	a. Darlene Trujillo (guardian/maternal grandmother)
	Inventory		b. Ralph Trujillo (maternal grandfather)
	PTC		
	Not.Cred.		
	Notice of Hrg	X	
	Aff.Mail	X	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		Reviewed by: KT
	Status Rpt		Reviewed on: 1/30/13
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 9 - Trujillo



Pro Per Williams, Diane (Pro Per Petitioner, maternal aunt)

## Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Shayma Age: 3 years		<b>TEMPORARY GRANTED ON COURT'S OWN MOTION EXPIRES 1/8/2013; extended to 2/5/2013.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Continued from 1/8/2013.</b> Minute Order states in pertinent part: father, Derrick Crockett, and mother, Della Lynn, are in favor of the petition. The Petitioner is informed that there are defects in the petition that need to be cured. Matter is continued to 2/5/2013. The temporary is extended to 2/5/2013.
Derrick Age: 2 years			
Cont. from 111312, 010813			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg	<b>DIANE WILLIAMS</b> , maternal aunt, is Petitioner.  Father: <b>DERRICK L. CROCKETT</b> ; personally served 11/13/2012.  Mother: <b>DELLA L. LYNN</b> ; personally served 11/13/2012.  Paternal grandfather: <i>Not listed; Court dispensed with notice 11/13/2012.</i> Paternal grandmother: <i>Not listed; Declaration of Due Diligence filed 1/17/2013.</i>  Maternal grandfather: <i>Not listed; Court dispensed with notice 11/13/2012.</i> Maternal grandmother: Roberta Waldrop; deceased.  <b>Petitioner states</b> she wants guardianship of the children because no one wants to take care of them and she does not want them to go to CPS, and she loves them because they are her blood.  <b>Court Investigator Dina Calvillo's Report was filed on 11/6/2012.</b>  <b>Court Investigator Dina Calvillo's Supplemental Report was filed on 11/16/2012.</b>	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		W/
✓	Conf. Screen		
	Aff. Posting		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 1/31/13 <b>Updates:</b> <b>Recommendation:</b> <b>File 10 - Crockett</b>
✓	Clearances		
✓	Order		
✓	Letters		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 7 months		<b>TEMPORARY EXPIRES 2/5/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>KELLEY D. GALVAN</b> , non-relative, is petitioner.		1. Petition indicates the paternal grandfather is unknown. Need declaration of due diligence.	
		Father: <b>JERRY LEE BRYSON</b> – consents and waives notice.			
		Mother: <b>MARGARITA HERNANDEZ</b> – consents and waives notice.			
Cont. from		Paternal grandfather: unknown			
	Aff.Sub.Wit.		Paternal grandmother: Adelaida McClain – served on 1/22/13.		
✓	Verified		Maternal grandfather: deceased		
	Inventory		Maternal grandmother: Jane Hernandez – consents and waives notice.		
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	W/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.		<b>Petitioner states</b> the mother is incarcerated in San Bernardino County. The father consents to the guardianship due to him having a substance abuse problem.		
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp		<b>DSS Social Worker, Keith Hodge's report filed 2/1/13</b>		
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 1/30/13	
				Updates: 2/4/13	
				Recommendation:	
				File 11 - Bryson	

Age: 15 years		<b><u>TEMPORARY EXPIRES ON 2/5/13</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>ERICA DORFMEIER</b> , sister and		1. Need proof of <b>personal</b> service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice on: a. Jordan Paul O'Neal (minor)  2. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. David O'Neal (brother)	
		<b>AARON DORFMEIER</b> , brother-in-law,			
		are petitioners.			
Cont. from		Father: <b>DECEASED</b>			
	Aff.Sub.Wit.	Mother: <b>DECEASED</b>			
✓	Verified	Paternal grandparents: Deceased			
	Inventory	Maternal grandfather: Deceased			
	PTC	Maternal grandmother: Joyce			
✓	Notice of Hrg	"Janet" Newton – served by mail			
✓	Aff.Mail	W/	on 1/8/13		
	Aff.Pub.	<b>Petitioner states</b> they have cared			
	Sp.Ntc.	for the minor since his parents'			
	Pers.Serv.	death in August 2009. Jordon is			
✓	Conf. Screen	happy, content and secure living			
✓	Letters	with the Petitioners.			
✓	Duties/Supp	<b>Court Investigator Jennifer Daniel's</b>			
	Objections	Report filed on 1/29/13.			
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				<b>Reviewed by: KT</b>	
				<b>Reviewed on: 1/30/13</b>	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 12 – O'Neal</b>	